THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 24660 of 1998

22-08-2007

Between:

The Depot Manager,
APSRTC, Zahirabad Depot.

Petitioner

And

V. Gangaram and another.

Respondents.

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 24660 of 1998

Oral Order:

The Andhra Pradesh State Road Transport Corporation is before this Court assailing the award of the Labour Court-II, Hyderabad dated 28-04-1997 in I.D.No. 26 of 1993. The first respondent-workman was employed as a Conductor with the writ petitioner-Corporation. He was conducting bus No.6461 on
19-12-1990 on the route Zahirabad-Pothireddipally. In a departmental check of the bus, on an allegation that the respondent-workman had collected Rs.03-75 paise each

from six passengers who had boarded at Zaheerabad and bound to Pothireddypaly ex-stages 1 to 6 and he had issued tickets which were un-punched and not accounted for in the S.R. and had shown the number of passengers as 20 instead of 30, a departmental enquiry was initiated. In the spot check on 19-12-1990, the workman admitted the irregularities but claimed that they were committed erroneously. Eventually, after due process of enquiry, the workman was visited with the penalty of removal from service. The workman laid a claim under Section 2-A (2) of the Industrial Disputes Act, 1947.

The Labour Court affirmed the conclusion in the departmental enquiry that the workman had committed the irregularities and was guilty of the charge. No procedural defects in the departmental enquiry were found. However, the Labour Court set aside the punishment of removal from service of the workman and directed the writ petitioner to reinstate the workman into service with all attendant benefits but with only 50% back-wages, on the ground that only a paltry sum is involved and that the punishment of removal from service was harsh and disproportionate.

The workman was found guilty of misappropriation of the funds of the petitioner-Corporation. The Labour Court having affirmed this conclusion in the departmental enquiry and having regard to the extreme of gravity of a charge of misappropriation of employer's funds found and

established in the departmental enquiry, misdirected itself in applying the doctrine of proportionality on the perverse view that the amount misappropriated was paltry. It is the quality of offence which is a grave one of misappropriation which is determinative for assessing the proportionality of punishment. This is a settled principle.

On the aforesaid analysis, the award of the Labour Court to the extent of setting aside the punishment of removal from service and modifying it to one of reinstatement with attendant benefits in continuity, but 50% back-wages is unsustainable and is accordingly set aside.

The writ petition is allowed *pro tanto*. There shall however be no order as to costs.

GODA RAGHURAM, J

Dated: 22-08-2007
pvks